IV. REMARKS

Claims 1-37 are pending in this application. By this amendment, claims 1, 6-8, 13, 18, 23-25 and 30 have been amended. Claims 35-37 have been added. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 6, 7, 23 and 24 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 1-34 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Hoyer *et al.* (U.S. Patent No. 6,381,635), hereafter "Hoyer." These rejections are hereby traversed for the following reasons.

A. REJECTION OF CLAIMS 6, 7, 23 and 24 UNDER 35 U.S.C. §101

The Office has rejected claims 6, 7, 23 and 24 for allegedly being directed to non-statutory subject matter. Applicants respectfully traverse the rejection. Applicants have amended claims 6, 7, 23 and 24 to recite, "a computer program product." Applicants assert that this amendment further directs the invention to statutory subject matter. Accordingly, Applicants request that the rejection be withdrawn.

B. REJECTION OF CLAIMS 1-34 UNDER 35 U.S.C. §102(e)

With regard to the 35 U.S.C. §102(e) rejection over Hoyer, Applicants assert that Hoyer does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 8, 13, 18, 25 and 30, Applicants submit that Hoyer fails to teach formatting the performance data from the format of the proprietary system into a data structure having a standard format. Instead, the invention in Hoyer deals with displaying a graphical representation of multiple performance measurements of a web site. Abstract. In order to accomplish its goal, Hoyer uses a performance monitor in a server side component to collect the performance measurements from the server, including: hit rate, response time and CPU Utilization. Col. 7, lines 37-55. The performance measurements in Hoyer are then sent to a client side component, which arranges and displays the information graphically via Java applets. Col. 8, lines 52-56, 60-64. Nowhere does Hoyer teach that the performance measurements are formatted from a proprietary format to a standard format. In contrast, the present invention includes "...formatting the performance data from the format of the proprietary system into a data structure having a standard format." Claim 1. As such, the performance data of the present invention is not simply collected and forwarded to a Java applet to be arranged for display as in Hoyer, but is rather formatted from the format of the proprietary system into a data structure having a standard format. Thus, the forwarding of performance measurements to a Java applet for arrangement for display in Hoyer is not equivalent to the formatting of the performance data from the format of the proprietary system into a data structure having a standard format as included in the claimed invention. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to independent claims 1, 8, 13, 18, 25 and 30, Applicants respectfully submit that Hoyer also fails to teach that the formatting of the performance data of the proprietary system is independent of the format of the proprietary system. Instead, Hoyer "...relies on the presence of the Netscape MIB..." and "...cannot support the Netscape Fastrack Server as it does not support the Netscape MIB." Col. 9, lines 57-62. The present invention, in contrast, includes "...the formatting of the performance data is independent of the format of the proprietary system." Claim 1. As such the formatting of the performance data in the current invention, is not dependent of the format of the proprietary system as in Hoyer. Accordingly, Applicants request that the rejection be withdrawn.

With respect to dependent claims 2, 9, 14, 19, 26 and 31, Applicants respectfully submit that Hoyer fails to teach that the data structure is formatted in XML. Hoyer includes a cluster manager that includes a set of HTML pages. Col. 8, line 1. However, the Hoyer cluster manager is an administrative interface for each of its web servers and does not communicate the performance measurements to the client side component. Col. 7, lines 66-67. The communication in Hoyer is performed by Java applets, which interact with the server side component. Col. 8, lines 64-66. Nowhere does Hoyer teach that the performance measurements are in a data structure of XML format. In contrast, the claimed invention includes "...the data structure is formatted in XML." Claim 1. As such, the data structure that includes the performance data as included in the claimed invention is, *inter alia*, in XML format, not in Java applet format as are the performance measurements in Hoyer. Thus, the HTML pages in the cluster manager of Hoyer are not equivalent to the data structure that is formatted in XML as included in the claimed invention. Accordingly, Applicants request withdrawal of the rejection.

With respect to dependent claims 5, 12, 17, 22, 29 and 34, Applicants respectfully submit that Hoyer fails to teach that the data structure has a tree topology. As stated above, the Hoyer client side component arranges and displays the performance measurements graphically via Java applets. Col. 8, lines 52-56. The display by the Hoyer Java applets may include a number of tabs where each tab, when clicked by the user, presents a different view of the performance measurements. Col. 10, lines 45-54. However, the tabs in the Hoyer display are not a data structure having a tree topology. Furthermore, the Hoyer display is not a data structure at all, but merely a display. Nowhere, does Hoyer teach that its performance measurements are in a data structure having a tree topology. The claimed invention, in contrast, includes "...the data structure has a tree topology." Claim 5. As such the data structure is not merely a display with tabs as in Hoyer, but rather has, *inter alia*, a tree topology. For the above stated reasons, the tabs in the Hoyer display are not equivalent to the data structure having a tree topology as included in the claimed invention. Accordingly, Applicants request that the Office withdraw its rejection.
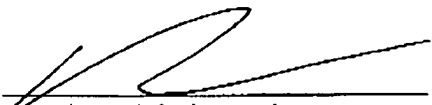
With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

V. CONCLUSION

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted.

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